

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

KYLE RAINEY,

Petitioner

-VS-

WARDEN JAMES WYDNER, et al.,

## Respondents

NO. 3:CV-05-2359

(Judge Kosik)

# MEMORANDUM AND ORDER

NOW, this 22<sup>nd</sup> day of December, 2005, IT APPEARING TO THE COURT THAT:

(1) Petitioner, Kyle Rainey, an inmate at the State Correctional Institution at Dallas, Dallas, Pennsylvania, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2254 on November 14, 2005;

(2) The matter was assigned to Magistrate Judge Thomas M. Blewitt;

(3) On November 22, 2005, the Magistrate Judge filed a Report and Recommendation in which he recommended that the instant action be transferred to the United States District Court for the Eastern District of Pennsylvania;

(4) Specifically, the Magistrate Judge found that while petitioner was challenging a decision of the Pennsylvania Board of Probation and Parole, petitioner asserted that he still has outstanding matters in the Philadelphia County Court of Common Pleas and that petitioner's records, which will impact the instant petition, are located in the Eastern District of Pennsylvania;

(5) No objections were filed to the Magistrate Judge's Report and Recommendation;

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.

§636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give “reasoned consideration” to a Magistrate Judge’s report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

(7) Having considered the Magistrate Judge’s Report, we agree with the recommendation.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated November 22, 2005 (Document 3) is adopted; and,

(2) The Clerk of Court is directed to transfer the above-captioned action to the United States District Court for the Eastern District of Pennsylvania.

---

s/Edwin M. Kosik  
United States District Judge